



San Diego County Water Authority

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(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

January 6, 2016

To: Kathy.Frevert@waterboards.ca.gov

Subject: “Comments on Proposed Regulatory Framework”

MEMBER AGENCIES

- Carlsbad
Municipal Water District
- City of Del Mar
- City of Escondido
- City of National City
- City of Oceanside
- City of Poway
- City of San Diego
- Fallbrook
Public Utility District
- Helix Water District
- Olivenhain
Municipal Water District
- Otay Water District
- Padre Dam
Municipal Water District
- Camp Pendleton
Marine Corps Base
- Rainbow
Municipal Water District
- Ramona
Municipal Water District
- Rincon del Diablo
Municipal Water District
- San Dieguito Water District
- Santa Fe Irrigation District
- South Bay Irrigation District
- Vallecitos Water District
- Valley Center
Municipal Water District
- Vista Irrigation District
- Yuima
Municipal Water District

**Thomas Howard, Executive Director
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814**

Dear Mr. Howard:

The San Diego County Water Authority appreciates efforts by the State Water Resources Control Board staff to propose revisions to the Emergency Regulation. The Proposed Framework begins to address the inequities of the current one-size-fits-all regulatory policy, but it does not go far enough to reflect significant regional supply reliability differences throughout the state. For a state as diverse and complex as California, it is a disservice to the residents and businesses of the state to not fully account for the supply conditions and water management efforts of local communities.

Based on this principle, our comments focus on three main areas of the proposed Regulatory Framework: 1) the need to revisit the Extended Emergency Regulation in April 2016 and evaluate from a regional perspective. It is critical that the Board reassess the need for modifying or terminating the Extended Emergency Regulation based on supply conditions that will continue to evolve after the February Board meeting; 2) Drought Resilient Sources of Supply Credit; and 3) Cap on Credits and Adjustments.

The Extended Emergency Regulation must contain a finding to revisit the Regulation in April 2016 and recognize regional variability in supply conditions.

The proposed Regulatory Framework does not address the uncertainties regarding this year’s water supply situation and the potential for significant improvements due to El Niño conditions. The Framework also does not recognize that potential wet conditions could impact supply conditions differently throughout the state. Language should be included in the findings section of the extended Emergency Regulation requiring the State Water Board to revisit the regulation no later than April 2016 to ensure there is a nexus between the required reduction mandate and supply conditions both statewide and regionally.

To provide for sound and equitable drought management, the Emergency Regulation should recognize that supply conditions and actual shortage levels may differ greatly

throughout the state. Language should be included in the Emergency Regulation that requires the State Water Board to evaluate the specific supply situations of each urban water supplier to determine whether they are experiencing water shortages and have adequate storage reserves. The water-use reduction mandates assigned by the State Water Board to urban water suppliers must reflect these local supply conditions.

Language in the Emergency Regulation should call for the State Water Board to coordinate with the Department of Water Resources on the key statewide drought recovery factors to consider, such as snowpack, runoff and precipitation and urban water suppliers on local factors influencing water supply availability and storage levels in their region.

Proposed Drought Resilient Sources of Supply Credit (Supply Credit)

At the December 7, 2015, State Water Board Public Workshop and in our December 1, 2015, comment letter, the Water Authority advocated for credits toward meeting state reduction targets that reflect the billions of dollars of investments made by the Water Authority and other water utilities in drought-resilient supplies. Our comment letter contains details about the Water Authority's proposal, and it is attached for your reference. The 4 percentage point reduction contained in the proposed Supply Credit is helpful, but does not appropriately acknowledge the importance and value to California's economy of the actual investments communities such as ours have made in drought-resilient supplies. Under the Proposed Framework, regardless of the amount of supply developed, the urban water supplier would only receive a 4 percentage point reduction. We understand the importance of maintaining conservation efforts during the drought, and our region's commitment to conservation is unquestioned.¹ However, sound water resources management practices necessitate that the appropriate reduction level for a community be reflective of the supplies available. The Water Authority's proposal provides the necessary balance of drought-resilient supplies and conservation needed to manage the drought and ensure urban water suppliers receive the benefits of their investments in those supplies.

Should the State Water Board staff choose to incorporate the Proposed Framework methodology for the Supply Credit into the extended regulation, the reduction to urban water suppliers' conservation standards should be directly linked to their drought-resilient supply investments. For example, if an urban water supplier's potable supply portfolio includes at least 8 percent drought-resilient supplies, their conservation standard should be reduced two tiers, or 8 percentage points – not just the 4 percentage points allowed in the proposed methodology. To ensure continued conservation, the conservation standard for urban water suppliers must be at least 8 percent during emergency drought conditions.

¹ Residents and businesses in San Diego County have been statewide leaders in conservation. Per capita water use in our service area has declined by 40 percent since 1990. In FY 2015, total potable water use in San Diego County was 21 percent lower than it was in FY 1990, despite adding 800,000 people, 300,000 full-time jobs and nearly doubling our region's economic output. The Water Authority has also sponsored most of California's landmark water conservation laws.

To also equitably reflect the investments communities have made in drought-resilient supplies, the Emergency Regulation should provide credit for supplies developed prior to 2013. The Proposed Framework currently excludes communities from receiving credit for development of these supplies. These earlier investments are entirely consistent with the Governor's Action Plan, which calls for agencies to increase regional self-reliance and reduce demands on the Bay-Delta. The Emergency Regulation needs to recognize water agencies for their early implementation of comprehensive water management. Pre-2013 supplies have better prepared California for future droughts, by helping to reduce, forestall, or in some cases eliminate shortage impacts.

In addition, the proposed Supply Credit improperly excludes drought-resilient sources of supply such as desalinated brackish groundwater and conserved water from long-term transfers. The implementation of long-term agreements for the transfer of conserved supplies is critical to overall supply reliability for the State of California and critical to managing the current drought. Transfers of conserved water should be included as drought-resilient supplies in the Emergency Regulation because:

- They provide a new source of water, generated through extraordinary conservation by agricultural users, captured water that would have otherwise been lost;
- They do not increase diversions from a surface water or groundwater source;
- They can help improve regional resiliency to climate change by providing more operational flexibility; and
- They are a proven supply reliability strategy to promote water use efficiency and movement of water to other productive uses. For example, born out of water scarcity and drought, Australia instituted a market-based transfer system for the Murray-Darling Basin.

The Water Authority's long-term transfer of conserved Colorado River water provides additional benefits:

- Conserved Colorado River supplies are guaranteed by long-term contracts and agreements supported by California's priority water rights system;
- Procedures are in place to quantify and accurately measure the water conserved and transferred to urban water suppliers;
- They allow San Diego County to further diversify its supply portfolio with highly reliable water supplies that protect against shortages and reduces reliance on the Bay-Delta; and,
- By recognizing the value of long-term conservation and transfer programs, the agricultural community can significantly improve its water use efficiency through significant investments by the urban sector. It's a win-win for the both parties, the State of California, the seven Colorado River basin states, the United States and, by treaty minute orders, the Republic of Mexico. This type of agricultural to urban conservation and transfer program should be recognized and incentivized.

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In summary, the Proposed Framework takes a step toward recognizing investments in drought-resilient supplies, but it does not go far enough to reward those investments.

Cap on Credits and Adjustments

The proposed reduction cap of 4 percentage points does not fully recognize the specific supply conditions, investments in drought-resilient supplies and local characteristics of communities across California. As mentioned, the proposed framework needs to move further away from a one-size-fits-all regulatory policy. Urban water suppliers' reduction mandates should recognize the supply conditions and characteristics of their communities. Imposing a cap would negate the ability to fully utilize the very credits and adjustments that are intended to provide that recognition. For example, the proposed cap of 4 percent would discount the supply value by half of the Carlsbad Desalination Project. We recommend the cap not be included in the extended Emergency Regulation. To maintain water savings, a conservation floor of 8 percent should be included.

We appreciate the opportunity to comment on the proposed Regulatory Framework for the Extended Emergency Regulation, and we look forward to working with the State Water Board to establish a flexible approach that recognizes potential hydrologic changes along with local/regional supply conditions and investments.

Sincerely,



Maureen A. Stapleton
General Manager

cc: Honorable Felicia Marcus, Chair, and Members of the State Water Resources
Control Board

Enclosure



San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

To: commentletters@waterboards.ca.gov

Subject: "Comment Letter – Urban Water Conservation Workshop"

MEMBER AGENCIES

Carlsbad
Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

City of Poway

City of San Diego

Fallbrook
Public Utility District

Helix Water District

Lakeside Water District

Olivenhain
Municipal Water District

Olay Water District

Padre Dam
Municipal Water District

Camp Pendleton
Marine Corps Base

Rainbow
Municipal Water District

Ramona
Municipal Water District

Rincon del Diablo
Municipal Water District

San Dieguito Water District

Santa Fe Irrigation District

South Bay Irrigation District

Vallecitos Water District

Valley Center
Municipal Water District

Vista Irrigation District

Yuma
Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

Thank you for the opportunity to submit these comments on potential modifications to the Emergency Regulation for Statewide Urban Water Conservation (Emergency Regulation). We will also be providing oral comments at the December 7, 2015 Public Workshop.

Since the devastating multi-year drought that ended in the early 1990s, the San Diego County Water Authority and its member agencies have taken actions to more effectively manage supply shortages and reduce reliance on California’s drought impacted supplies, such as the Bay-Delta. The residents and businesses in San Diego County have reduced per capita water use by 40 percent since 1991 and have invested billions of dollars in developing a portfolio of drought-resilient supplies specifically designed to make our region less vulnerable to droughts and supply cutbacks. In 1991, the region was 95 percent reliant on imported supplies from the Metropolitan Water District. In 2015 that figure is now 57 percent and expected to decline to approximately 18 percent in 2035. The region also adopted a Water Shortage and Drought Response Plan in 2006, to provide a thoughtful, progressive and coordinated approach to managing droughts. These actions and experiences form the basis for our comments.

The current Emergency Regulation was adopted in response to unprecedented hydrologic conditions in 2015 and it’s widely recognized that the State Water Board needed to take swift and decisive action at the time. Based on Governor Brown’s November 2015 Executive Order the State Water Board now has the opportunity to modify the Emergency Regulation, if extended, to incorporate insights gained from implementation of the regulation.

Based on our experience and that of our retail member agencies, there are two fundamental reasons why the Emergency Regulation should be modified:

A public agency providing a safe and reliable water supply to the San Diego region

1. The Emergency Regulation is currently a “one size fits all” approach, which for a state as diverse and varied as California is not equitable to the citizens of the state. It fails to recognize the supply conditions, characteristics, priorities and water management efforts of local communities. A more effective approach is to adopt regulatory policy that provides for a coordinated and integrated approach, acknowledging the unique characteristics and water supply reliability investments of local communities.
2. The Emergency Regulation is a “water conservation only” response to managing droughts that does not take into account development of drought-resilient supplies. Governor Brown’s Water Action Plan calls for agencies to increase regional self-reliance through conservation and investment in sustainable supplies. While extraordinary conservation is critical to managing droughts, this one-sided approach is detrimental to California for the following reasons:
 - a) It does not provide a sustainable, balanced and diversified approach to managing California’s water shortages;
 - b) Local communities are not able to realize the benefits of their investments in drought-resilient supplies;
 - c) It does not provide an incentive for communities to develop local drought-resilient supplies; and
 - d) It harms California’s economy. Businesses are unlikely to relocate or expand their businesses when they are faced with prolonged water use reduction mandates that ignore the availability of drought-resilient supplies.A more effective approach is to adopt regulatory policy that acknowledges and promotes the development of drought-resilient supplies.

Below are detailed responses to questions that were provided in the Workshop Notice.

What elements of the existing Emergency Regulation, if any, should be modified in an extended Emergency Regulation?

1. Modify the Emergency Regulation to Take Into Account Development of Drought-Resilient Supplies

To provide a more sustainable, equitable and balanced approach to managing California’s drought the Emergency Regulation must be modified to take into account development of drought-resilient supplies. We are proposing the Emergency Regulation be modified to include an alternative path to compliance, which can be taken by agencies that have invested in drought-resilient supplies.

The proposed alternative path to compliance method is a simple, straightforward approach where an urban water supplier may be allowed to achieve its reduction target through a combination of conservation and drought-resilient supplies. To ensure a balanced approach to managing the current drought, an agency’s required conservation savings cannot drop

below a certain threshold, which is currently proposed at 8% based on the current Emergency Regulation.

The proposed alternative path to compliance, when incorporated into the Emergency Regulation, would not alter an established statewide reduction mandate or increase other urban water supplier's conservation standard. Under this modification, an urban water supplier's conservation standard is not decreased; they will meet their reduction target through a combination of conservation and drought-resilient supplies.

To utilize the alternative path to compliance, an urban agency must provide written proof that the existing and current long-term, drought-resilient supply meets the following criteria:

- Written agreements, contracts, or other guarantees are in place that identify the long-term availability of the supply to the urban water supplier; and,
- It is a drought-resilient supply, such as potable reuse, desalination, long-term transfer of conserved water or other supply source not impacted by California's current drought.

A wholesaler has the ability to assign its drought sustainable supplies to the urban water suppliers that are served by that wholesaler. Table 1 illustrates how an agency could utilize this alternative path to compliance to achieve its reduction target.

Table 1: Illustrative Example - Alternative Path to Compliance Achieving Conservation Standard through Combination of Water Conservation and Sustainable Supplies Figures in Acre-Feet				
		Example Agency A	Example Agency B	Example Agency C
A	2013 Base Period (Urban Potable Water Use)	3,000	3,000	3,000
B	Conservation Standard	20%	20%	20%
C=A*B	Total Reduction Target	600	600	600
<i>Reduction target may be met through conservation and sustainable supplies</i>				
D	Sustainable supplies available	200	0	500
E=C-D	Conservation savings	400	600	100
F=E/A	Does conservation saving drop below 8%?	13% (No)	20% (No)	3% (Yes)
<i>Determine sustainable supplies and conservation applied to reduction target, assuming 8% conservation floor</i>				
G= E or A*.8	Conservation savings required with 8% floor	400	600	240

H= D or C-G	Adjusted sustainable supplies applied to Reduction Target (adjusted for required 8% conservation savings where necessary)	200	0	360
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The current Emergency Regulation correctly recognizes the benefit of developing non-potable recycled water as a means to manage droughts. This proposed modification is necessary to allow residents and businesses to receive the reliability benefit associated with investments in potable drought-resilient water supplies. It will also provide an incentive for communities to develop sustainable supplies and reduce demands on California’s drought impacted supplies, such as the Bay-Delta.

2. Maintain the Commercial Agricultural Exemption in Extended Emergency Regulation

Governor Brown’s April 2015 Executive Order clearly indicated that agricultural within the state should not be further impacted due to adoption of regulations. The current Emergency Regulation adopted by the State Water Board clearly reflected the Governor’s direction and any potential extension of the regulation should maintain the exemption for commercial agricultural. Consistent with the current Emergency Regulation, urban suppliers within the San Diego County Water Authority imposed locally appropriate reductions on their commercial agricultural customers which have resulted in a reduction of at least 7,151 AF, or 29% compared to the same period in 2013. Further, in keeping with the April 2015 Executive Order and the Emergency Regulation, nineteen of the Water Authority’s member agencies with commercial agriculture are in the process of developing a region-wide Agricultural Water Management Plan to be approved and delivered to the State Water Board by February, 2016.

3. Modify the Emergency Regulation to Recognize Local Community Character Differences

The Emergency Regulation should be modified from a “one size fits all” approach to acknowledge the character differences of urban water suppliers throughout the state and provide a more equitable approach to managing the drought. Characteristics such as available supplies, climate and growth should be taken into account. The specifics related to incorporating climate and growth differences into the Emergency Regulation are being addressed through separate proposals to the State Water Board. Use or application of these adjustments should be at the discretion of the water supplier and no agencies should have their conservation standard adjusted upwards as a result of these modifications.

How should the State Water Board account for precipitation after January 2016 in its implementation of any extension of the Emergency Regulation?

- **State Water Board must demonstrate a Nexus between Reduction Mandates and Supply Conditions.** If the Emergency Regulation is extended, the State Water Board must use a thoughtful and transparent process to determine the statewide reduction mandates to ensure that the citizens of California understand the need for the reduction. There needs to

be a clear nexus between the reduction mandates and current supply conditions both statewide and locally.

- **State Water Board must consider Local Supply Conditions when Setting Potential Reduction Mandates.** With the uncertainties surrounding how the El Niño condition will impact precipitation levels this winter in different parts of the state, it will be important for the State Water Board to consider the supply situation of each urban water supplier and whether they are experiencing shortages and have adequate storage reserves. The potential reduction mandate assigned by the State Water Board to the urban water supplier must reflect these local supply conditions.
- **State Water Board should Monitor Supply Conditions Monthly.** If drought conditions persist through January 2016, the State Water Board should extend the existing regulation, with the modifications discussed in this letter, and monitor supply conditions monthly through April 2016. To determine what metrics to utilize in evaluating supply conditions, State Water Board should consult with the Department of Water Resources and other relevant agencies. The metrics could be those included in DWR's Bulletin 120, which contains forecasts of seasonal runoff from the state's major watersheds, and summaries of precipitation, snowpack, and reservoir storage in various regions of the state. In consultation with DWR, the State Water Board would evaluate the conditions monthly and ensure a nexus between supply availability and mandated savings. If the nexus no longer exists, the mandated savings reduction figure must be modified.

We appreciate the opportunity to comment on the potential extension of the Emergency Regulation and look forward to working with the State Water Board to develop a more equitable, sustainable and balanced approach to managing California's unprecedented drought.

Sincerely,



Maureen A. Stapleton
General Manager